

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



January 24, 2002

# Thur 8e

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR  
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE  
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR LCP  
AMENDMENT No. 2-2001-C (Sea World Master Plan) TO THE CITY OF SAN  
DIEGO LOCAL COASTAL PROGRAM (For Public Hearing and Possible  
Commission Action at the Meeting of February 5-8, 2002)**

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## **SYNOPSIS**

### **SUMMARY OF AMENDMENT REQUEST**

LCP Amendment 2-2001-C is a request by the City of San Diego to amend the City's certified Local Coastal Program (Land Use Plan) to incorporate the SeaWorld Master Plan Update into the Mission Bay Park LUP segment of the City's LCP. The request includes several amendments to the certified Mission Bay Park Master Plan incorporating the height exemption approved by the voters in 11/98, exempting SeaWorld from the City's 30-foot height limit in the coastal zone, and incorporating the Sea World Master Plan Update as a component of the LUP. The SeaWorld Master Plan Update itself proposes redevelopment and expansion of SeaWorld over the next several years under a tiered program. Components of the plan address development criteria, design guidelines and five Tier 1 developments: a splashdown ride proposed partially within the adjacent 16.5 acre leasehold expansion area, an educational facility, major front gate renovations, parking lot improvements in the expansion area and on- and off-site access improvements for pedestrians and bicyclists. The plan also delineates eight sites for Tier 2 development, but propose no specific improvements at this time. Finally, the plan identifies three special projects: expansion of the marina, construction of a hotel and construction of a multi-story parking garage/transit center, that are not expected to occur for many years.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends denial of the land use plan amendments as submitted, then approval with suggested modifications. The proposed modifications to the Mission Bay Master Plan are designed to include policies within the plan that will prioritize completion of the public recreational improvements at South Shores and Fiesta Island, prior to allowing any significant expansion of commercial development and/or leaseholds within Mission Bay

Park. The plan identifies regional parkland, access and circulation improvements that are necessary in these two areas which comprise 600 acres of currently undeveloped or underdeveloped parkland. Plan policies require that all available funding mechanisms, including but not limited to, developer fees from existing and proposed commercial leaseholds within the park, be considered to assure buildout and public use of these underutilized public recreational areas, prior to further expansion of commercial development within Mission Bay Park. Additionally, any proposals for planned commercial development identified in the plan must be evaluated in the context of the existing land use intensity, traffic capacity and circulation, transit opportunities, the supply of lower cost visitor and recreational facilities, population increase and public recreational demand. Such commercial development may be delayed or modified to meet the demands for public and regional access and recreational facilities within Mission Bay Park.

Regarding the SeaWorld Master Plan, the recommended policies would allow for the proposed Splashdown ride, however, in a revised location. Its proposed location within the expansion area is too highly visible and too close to the water's edge to be found consistent with Section 30240 and 30251 of the Coastal Act. Staff is recommending the Splashdown ride be relocated to the interior to the existing theme park and that development of the leasehold expansion area occur in a manner consistent with other commercial leaseholds in Mission Bay Park. A 50 foot area along the water's edge should be reserved for public access improvements designed to encourage public use, and any structures should be setback an additional 25 feet. Additionally, the recommended policies would assure that, in addition to completion of the bikeway improvements at South Shores Park, required by the City, SeaWorld would also be responsible for construction of the waterfront promenade at South Shores, a planned regional parkland improvement identified in the Mission Bay Park Master Plan, to offset the loss of available public parkland and lack of public access opportunities through the SeaWorld leasehold.

Regarding the proposed height allocation limits, staff is recommending deletion of such limits in the plan at this time. The plan anticipates that potentially 25 % of the the development within the park would exceed 30 feet in height. This would include the Tier 2 development which is unknown and unplanned at this time. As proposed, fifteen percent of park development could occur between 30 and 60 feet in height. This bulk and scale of development would be a substantial departure from the character of development within Mission Bay Park which, with the exception of four high-rise hotels, has been developed under the City's 30 foot coastal height initiative. Staff prefers to leave any future development subject to Chapter 3 policies which can be applied when the details of each individual project are known. Additionally, staff is recommending that the plan clarify that potential Tier 2 projects are not approved as part of the Master Plan and that future Tier 2 development would require an LCP amendment.

Regarding impacts to traffic and circulation, staff is recommending that the Caltrans Project Study Reports for improvements to the I-5/I-8 interchange and the I-5/SeaWorld Drive Interchange be utilized to determine the phasing and funding of improvements

necessary to relieve congestion during peak summer recreational use and address the cumulative effects of increased commercial development, population and public recreational demand on public access to Mission Bay Park. These reports are not yet completed; however, they are necessary to determine how the necessary improvements will be funded and completed, prior to allowing the impacts associated with increased commercial development to occur.

Staff is also recommending additional policies addressing improved water quality measures be incorporated into the plan consistent with the most recent RWQCB order. Other policies address the fireworks displays which are provided by SeaWorld and which the City has capped at 150 displays per year. Due to the potential but undocumented adverse impacts to water quality, air quality and biological resources associated with the fireworks displays, staff is recommending the displays be allowed to continue for a five year period and for SeaWorld to continue to monitor the pollutants and debris and the effectiveness of the required BMP program. The continuance of the fireworks displays will be re-evaluated at that time.

The appropriate resolutions and motions begin on page 5. The suggested modifications begin on page 5. The findings for denial of the Land Use Plan Amendment as submitted begin on page 21. The findings for approval of the Land Use Plan Amendment if modified begin on page 33.

## **BACKGROUND**

The City's first IP was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. While it is newly in operation, the City is reviewing this plan on a quarterly basis, and is expecting to make a number of adjustments to facilitate implementation; most of these will require Commission review and certification through the LCP amendment process.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP amendment No. 2-2001-C may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code, and associated documents, as the City's IP, replacing the original IP adopted in 1988.

### **B. STANDARD OF REVIEW**

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

#### **Section 30512**

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

### **I. Denial as Submitted**

**MOTION:**     ***I move that the Commission certify Land Use Plan Amendment 2-2001-C as submitted by the City of San Diego.***

### **STAFF RECOMMENDATION TO DENY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

### **RESOLUTION TO DENY:**

The Commission hereby denies certification of the Land Use Plan Amendment 2-2001-C as submitted by the City of San Diego and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

### **II. Approval with Suggested Modifications**

**MOTION:**     ***I move that the Commission certify Land Use Plan Amendment 2-2001-C for the City of San Diego if it is modified as suggested in this staff report.***

**STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Land Use Plan Amendment 2-2001-C for the City of San Diego if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

**PART III. SUGGESTED MODIFICATIONS**

Staff recommends the following suggested revisions to the proposed Land Use Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

**Modifications to the Mission Bay Park Master Plan:**

1. On Page 16 of the Mission Bay Park Master Plan Update, Executive Summary, the following modification shall be made to the City's proposed new language (for the purposes of this suggested modification, the single underlined sections represent the City's amendment to the Mission Bay Park Master Plan Update and the double underlined sections represent the Commission's suggested modifications):

In order to allow greater flexibility in designing new facilities within the SeaWorld leasehold, the City of San Diego's Coastal Zone Height Limit Overlay

Zone was amended by public vote in November, 1998. The zoning code amendment allows potential development to a maximum height of 160 feet within the SeaWorld property. However, specific criteria governing the location, height, scale, massing and visual impacts of all SeaWorld development shall be governed by the Coastal Act and the Sea World Master Plan, which is incorporated by reference into the Mission Bay Park Master Plan and LCP Land Use Plan. All potential development shall require a coastal development permit issued in accordance with Coastal Act requirements.

2. On Page 26 of Appendix G, Design Guidelines of the Mission Bay Park Master Plan Update, revise the City proposed language to Item 27 as follows (for the purposes of this suggested modification, the single underlined sections represent the City's amendment to the Mission Bay Park Master Plan Update and the double underlined sections represent the Commission's suggested modifications):

27. Low Rise Emphasis: Mission Bay is an expansive area with wide and open views of the ocean from the surrounding hillsides. Low-scale buildings reinforce the open quality of the bay while minimally obstructing views to the sky and distant landforms. For this reason, and in recognition of the public mandate for a 30-foot height limit within the City's coastal areas (Municipal Code 101.0451), the Park buildings should continue to be low rise, except in the SeaWorld leasehold where the voter approved amendment to the City's Coastal Zone Height Limit Overlay Zone (Proposition D, 1998) would potentially allows building heights to a maximum of 160 feet, subject to the requirements of the Coastal Act and the Sea World Master Plan. Development within the leasehold shall be governed by the Sea World Master Plan, in addition to the Coastal Act and the Mission Bay Park Master Plan Update.

3. On Page 38 of the Mission Bay Park Master Plan Update, under Regional Parkland, after the introductory paragraph, the following paragraph shall be added:

Because of this projected regional growth, the City recognizes a need to improve the major undeveloped public areas of Mission Bay Park as the first priority under this plan. Open parkland and public recreational uses serve the broader public, including regional visitors. The City recognizes that public recreational improvements have not kept pace with intensification of commercial leaseholds. Therefore, planned expansion of commercial development and/or leaseholds within Mission Bay Park will not proceed until significant portions of the planned regional parkland and public access and circulation improvements identified in the Mission Bay Park Master Plan Update, are completed within South Shores Park and Fiesta Island.

4. On Page 44, the following shall be added to the last bulleted objective guiding the consideration of Dedicated Lease Areas:

- Within the preceding objectives, commercial lease areas should render maximum revenue utility to the City. However, public lower-cost visitor and recreational facilities shall have priority over commercial recreational uses. Any proposals for planned commercial development described in this plan shall be evaluated in the context of the existing land use intensity, traffic capacity and circulation, transit opportunities, the supply of lower cost visitor and recreational facilities, population increase and public recreational demand and may be delayed or modified to meet the demand for public recreation and access.

5. On Page 50 of the MBPBPU, Section 21 shall not be deleted as proposed by the City, and shall be modified as follows:

21. South Shores Commercial Parcel: Because of its limited water access and isolation from other areas of the Park, this 16.5 acre site is considered more suitable for commercial recreation purposes. The parcel has been configured such that ~~it's the northern half portion~~ (approximately six acres) lies outside the limits of the South Shores landfill while capturing a wide stretch of waterfront facing Pacific Passage. This allows a number of possible commercial uses to be considered, including the expansion of Sea World attractions, a 200-room motel, or a water-oriented entertainment center.

The underlying objective is that this parcel's "best use" is commercial recreation or visitor-serving commercial support facilities, compatible with existing and proposed public park/boating facilities at South Shores Park adjacent to the east. In accordance with public consensus on this issue, "best use" should not mean permanent and exclusive commercially-supporting parking. ~~Any new and permanent parking should be of such quantity and proportion as would be required to serve whatever commercial use may be proposed.~~ However, that portion (approximately ten acres) of the parcel constrained by the underlying landfill may be improved for parking purposes, to provide an additional safety cap over the landfill, consistent with landfill closure requirements.

6. The City's proposed replacement language for Section 21 shall instead be incorporated on Page 50 as Section 21.A and be modified to read as follows (for the purposes of this suggested modification, the single underlined sections represent the City's amendment to the Mission Bay Park Master Plan Update and the double underlined sections represent the Commission's suggested modifications):

**21a. SeaWorld:** In 1998, the City of San Diego's voters approved an amendment to the Coastal Zone Height Limitation Overlay Zone allowing development to a maximum height of 160 feet within the SeaWorld leasehold. In keeping with the intent of the Mission Bay Park Master Plan to preserve existing viewsheds and visual corridors, the additional height available to SeaWorld should be used judiciously. Therefore, the development criteria for the SeaWorld leasehold shall be governed by the SeaWorld Master Plan (also known as the



lease development plan) which is incorporated by reference into the Mission Bay Park Master Plan and the LCP Land Use Plan. In addition, any proposed development shall require an approved coastal development permit pursuant to the requirements of the Coastal Act.

7. On Page 114, Section 99. I-5, I-8 Interchange Ramps, shall be modified as follows:

**99. I-5, I-8 Interchange Ramps:** Several previous studies and reports, including the Midway Community Plan, have identified the need to complete the two remaining interchange ramps between Interstates 5 and 8. The two identified are the southbound ramp from I-5 west to I-8, and the eastbound ramp from I-8 north to I-5. These ramps would remove congestion from other freeway interchanges and local streets, and reduce the level of commuter traffic from Park roads.

Due to their expense, Caltrans is not anticipating implementing the ramps in the foreseeable immediate future. They are, however, an included project in the currently ongoing Interstate 5 Corridor Study, and would also require completion of a Project Study Report. However, as they would be of benefit to Park users and commuters alike, it is recommended that efforts to complete these studies and secure funding for the “missing” ramps be pursued. The Caltrans Project Study Reports for these and other traffic improvements at the I-5/SeaWorld Drive Interchange are necessary to determine the phasing and funding of improvements necessary to relieve congestion during peak summer recreational use and address the cumulative effects of increased commercial development, population and public recreational demand. These reports will be utilized as a factor in determining when expansion of commercial development and/or leaseholds may occur within Mission Bay Park in the future.

8. On Page 125, Section 113. Commercial Parcel shall not be deleted as proposed by the City and shall be modified as follows:

13. Commercial Parcel: The proposed 16.5+/- acre “best-use” commercial parcel is configured to take maximum advantage of the waterfront while still allowing the relocation of the Ski Club to the planned embayment. Its configuration also permits the retention of the existing restrooms. The actual boundary of the lease parcel should depend on the Ski Club area and shore public access requirements, but should not be less than 300 feet; this depth is the minimum necessary for a guest-housing, motel-type development as an optional commercial use. Any development of this parcel shall provide a minimum 50 ft. setback from the edge of rip rap to accommodate a public pedestrian promenade as an extension of the waterfront promenade planned for South Shores Park. All access improvements shall be oriented and designed to encourage public use of the waterfront. Buildings shall be setback at least 25 feet from the 50 foot access setback line.

9. On Page 153, the following addition shall be inserted at the end of the listed recommendations for ways to fund the deficit without increasing taxes:

7. Developer Fees.

10. On Page 155 the following shall be added as an additional recommendation #130.a.:

**130.a. Developer Fees:** The City recognizes that Mission Bay Park is, first and foremost, a public recreational facility. As commercial leaseholds come forward to redevelop, intensify and expand, areas and facilities affordable to the general public will be further impacted by increased traffic, noise, and runoff. Moreover, existing views may be impaired and the quiet enjoyment of parklands when adjacent to more active uses may be diminished. New public recreational improvements and necessary traffic improvements must be provided and are not adequately funded. Therefore, the use of developer fees as an option to provide funding necessary to mitigate the increasing public burdens brought about by commercial redevelopment, intensification and expansion shall be considered. Any such fees shall be used to construct planned public amenities throughout Mission Bay Park and identified traffic and circulation improvements within the park and on the surrounding road system. Completion of said public amenities/improvements shall occur prior to, or concurrent with, the private leasehold development within the public park. Specific public recreational and/or circulation improvements shall be identified, funded and installed prior to or concurrent with any commercial leasehold development or expansion.

11. On Page 169, the following modification shall be made to the PRIORITIES introduction paragraph:

With a \$170 million total implementation cost, of which only about \$90 million can be financed under the recommended incremental land lease revenue scenario (see Section X. Economics, Forecast Scenario B), a clear set of priorities should be established to guide the continuing development of the Park. Such priorities should seek to maximize short term benefit for the least possible cost. Improvements to undeveloped public parkland (particularly South Shores and Fiesta Island) shall be undertaken and substantially completed prior to further intensification and/or expansion of any commercial lease areas. All available funding mechanisms will be considered to assure buildout and public use of these underutilized public recreational areas prior to any further expansion of commercial development within Mission Bay Park.

12. On Page 85, the following Water Quality component shall be inserted prior to Section 59:

**a. Watershed Planning**

The City will support and participate in watershed based planning efforts with the Regional Water Quality Control Board. Watershed planning efforts shall be facilitated by helping to:

- Pursue funding to support the development of watershed plans;
- Identify priority watersheds where there are known water quality problems or where development pressures are greatest;
- Assess land uses in the priority areas that degrade coastal water quality;
- Ensure full public participation in the plan's development.

**b. Development**

New development or redevelopment shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:

- Protect areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.
- Limit increases of impervious surfaces.
- Limit land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.
- Limit disturbance of natural drainage features and vegetation.

New development or redevelopment shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, to the maximum extent feasible.

Development or redevelopment must be designed to minimize, to the extent practicable, the introduction of pollutants that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize pollutants, new development or redevelopment shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the Maximum Extent Practicable.

Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments.

New development or redevelopment shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development and redevelopment shall meet the requirements of the RWQCB, San Diego Region, in its Order No. 2001-01, dated February 21, 2001, or subsequent versions of this plan.

The BMPs utilized shall be designed to treat, infiltrate, or filter stormwater to meet the standards of the 85th percentile, 24-hour runoff event for volume-based BMPs and/or the flow of runoff produced from a rain event equal to at least two times the 85th percentile, 1-hour event for flow-based BMPs .

New roads, bridges, culverts, and outfalls shall not cause or contribute to shoreline erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. Where space is available, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.

Commercial development or redevelopment shall use BMPs to control the runoff of pollutants from structures, parking and loading areas.

Restaurants shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system.

Fueling stations shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, battery acid, coolant and gasoline to stormwater system.

New development or redevelopment shall include construction phase erosion control and polluted runoff control plans. The following BMPs should be included as part of the construction phase erosion control plan:

- Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site;
- Prevent blowing dust from exposed soils;
- Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials;
- Provide sanitary facilities for construction workers;
- Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies;
- Provide adequate disposal facilities for solid waste produced during construction and recycle where possible;
- Include monitoring requirements.

New development or redevelopment shall include post-development phase drainage and polluted runoff control plans. The following BMPs should be included as part of the post-development drainage and polluted runoff plan:

- Abate any erosion resulting from pre-existing grading or inadequate drainage.

- Control potential project runoff and sediment using appropriate control and conveyance devices; runoff shall be conveyed and discharged from the site in a non-erosive manner, using natural drainage and vegetation to the maximum extent practicable.
- Include elements designed to reduce peak runoff such as:
  - Minimize impermeable surfaces.
  - Incorporate on-site retention and infiltration measures.
  - Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces to reduce the amount of storm water leaving the site.

Storm drain stenciling and signage shall be provided for new storm drain construction in order to discourage dumping into drains. Signs shall be provided at shoreline public access points and crossings to similarly discourage dumping.

Outdoor material storage areas shall be designed using BMPs to prevent stormwater contamination from stored materials.

Trash storage areas shall be designed using BMPs to prevent stormwater contamination by loose trash and debris.

Permits for new development or redevelopment shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPs. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.

The City or lessees, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners and/or lessees of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.

Public streets and parking lots shall be swept frequently to remove debris and contaminant residue. For streets and parking lots within leaseholds, the lessee shall be responsible for frequent sweeping to remove debris and contaminant residue.

New development or redevelopment that requires a grading/erosion control plan shall include landscaping and re-vegetation of graded or disturbed areas. An integrated vegetation management plan shall be required and implemented. Use of native or drought-tolerant non-invasive plants shall be required to minimize the

need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.

New development or redevelopment shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.

### **c. Hydromodification**

Any channelization proposals shall be evaluated as part of a watershed planning process, evaluating potential benefits and/or negative impacts. Potential negative impacts of such projects would include effects on wildlife migration, downstream erosion, dam maintenance (to remove silt and trash) and interruption of sand supplies to beaches.

### **Modifications to the Sea World Master Plan Update:**

13. On Page E-1, under Site Specific Proposals, the following modification shall be made to the first bulleted item::

A splashdown ride with an aquatic theme and storyline that integrates technology, flumes, rail, and marine life displays. The attraction will not exceed 95 feet at its tallest point and ~~trees~~ will be located within the developed interior of the park (in the general area of designated C-1 and L-2 improvements shown on Figure II-3 of the plan) ~~planted~~ to soften the visual impact from ~~adjacent land and water~~ other areas of Mission Bay Park and surrounding communities. The design of the splashdown ride should be contemporary, responsive to the aquatic environment and avoid excessive or exaggerated thematic styles. The intent is to preclude from Mission Bay a theme park architecture.

14. On Page E-2, under Additional Project Review, the following modification shall be made:

The additional height of some attractions allowed by the passage of the SeaWorld Initiative under the SeaWorld Master Plan Update creates the need for greater public input to ensure that the quality of recreation and the visual character of Mission Bay Park will be maintained. SeaWorld is proposing additional local discretionary reviews for all projects greater than 30-feet in height, in addition to the required coastal development permit, as outlined in the implementation section of the plan.

15. On Page I-3, under Community Outreach and Issues Analysis, the final bulleted item shall be modified as follows:

**The appropriateness of a new hotel in Mission Bay Park (also relates to views, viewshed, and traffic issues).**

Prior to a formal project submission, the SeaWorld Master Plan Update requires a traffic study and an economic feasibility analysis assessing the need for another hotel in Mission Bay Park. Additionally, any hotel will require a City Council public hearing where the appropriateness of using public parkland for hotel development and the status of public park improvements, along with viewshed and traffic impacts, can be assessed and discussed in the context of a specific proposal.

16. On Page II-7, the following language shall be added at the ends of the descriptions of both Area 4 SeaWorld Marina and Area 5 Perez Cove Shoreline:

SeaWorld recognizes that this entitlement was granted by the City of San Diego only. The Coastal Commission did not review or certify the 1985 SeaWorld Master Plan, and is in no way bound by any of its provisions.

17. On Page II-10, the following modification shall be made to the bulleted Tier 2 item, under Proposed Conceptual Development Program:

Tier 2 identifies sites within Area 1 that are candidates for redevelopment, however, no specific project is proposed for the immediate future. Submittals for individual projects will be made over a span of many years. Descriptions of the sites are provided further in this section. Potential Tier 2 projects are not approved as part of this Master Plan, and no entitlements to redevelopment in the designated areas are granted nor permit approvals implied. Moreover, all Tier 2 development will require an LCP amendment to the Mission Bay Park/SeaWorld Master Plans.

18. On Page II-12, the following modification shall be made under Splashdown Ride (Site A-1), *Existing Site and Use*:

~~The site is located on 4.5 acres of land on the northeast corner of Area 1. Existing uses on the site include a landscape nursery and associated storage areas, trash compactor, and recycling facilities that will be relocated to other service sites within Area 1. The eastern portions of the site are undeveloped.~~ The site for this attraction shall be located within the existing developed portion of the park in the general area of designated C-1 and L-2 improvements shown on Figure II-3 of the plan. The Splashdown Ride shall not be located along the perimeter of the developed theme park, nor adjacent to Mission Bay.

19. On Page II-12, the following modification shall be made to the third bulleted item under Splashdown Ride, *Design Criteria*:

Provide extensive tree plantings ~~particularly on the north and east sides~~ to soften the visual impact of the structure from ~~adjacent~~ land and water areas of Mission Bay Park and surrounding communities. Selected species should have the potential to provide dense year-round foliage and attain heights of 60 feet at maturity.

20. On Page II-13, revise or delete *Figure II-4 Conceptual Splashdown Ride Site Plan* to conform to the revised location required in Suggested Modification #18, above.

21. Following Page II-20, the following modification shall be made to the new Tier 1 project added by the City (for the purposes of this suggested modification, the single underlined sections represent the City's addendum to the SeaWorld Master Plan Update and the double underlined sections represent the Commission's suggested modifications):

Offsite Bicycle/Pedestrian Path Improvements

*Proposed Project:*

To provide continuous shoreline access from SeaWorld's leasehold to Fiesta Island (a distance of approximately 4,700 feet) SeaWorld will construct a 10-foot wide landscaped pathway running from the northeast corner of the leasehold along the waterfront to the boat ramp and from the existing turn-around on the east side of the South Shores embayment, along the waterfront to the Fiesta Island Causeway. The accessway shall be completed by December 31, 2002. In addition, SeaWorld shall construct, in conjunction with the 10-foot pathway, a 50-foot wide public promenade, designed in substantial conformance with the promenade depicted in Figure 31 (South Shores Concept Plan) of the certified Mission Bay Park Master Plan and described as Item 112. of that plan. Final specifications and alignment details for the pathway and promenade shall be determined by the City Manager. The project shall then be submitted to the Coastal Commission for coastal development permit review and action, and, if approved, shall be constructed and open for public use prior to occupancy of any Tier 1 projects.

22. On Page II-22, the following modification shall be made to the last sentence under Site F-2:

Temporary facilities, that will not permanently damage the eelgrass habitat within the water area, ~~are exempted~~ may be permitted through the coastal development permit process, based upon site-specific biological analysis.



23. On Page II-24, the following paragraph shall be added after the introductory paragraph under Special Projects:

SeaWorld recognizes that any entitlements identified in this plan were granted by the City of San Diego only. The Coastal Commission did not review or certify the 1985 SeaWorld Master Plan, and is in no way bound by any of its provisions. Moreover, SeaWorld recognizes the need to re-evaluate each project at the time it is proposed, taking into consideration traffic issues and public recreational needs.

24. On Page II-28, the following additional footnote shall be placed on the table indicating the types and number of fireworks displays (as revised by the City of San Diego):

\* The 150 annual fireworks displays shall continue for a period of five years, during which time the monitoring outlined below shall be undertaken. At the end of five years, the continuance of fireworks displays at SeaWorld will be re-evaluated.

25. On Page II-28, under Fireworks Displays, the following new language shall be added before the last paragraph:

Due to rising concerns over the possible environmental effects of fireworks displays, both from public recreation and water quality standpoints, SeaWorld will implement/continue an expanded monitoring program during the next five years. Monitoring results will be submitted to the Coastal Commission, Regional Water Quality Control Board, National Marine Fisheries Service, U. S. Fish and Wildlife Service, and the California Department of Fish and Game, on an annual basis. At the end of five years, the potential adverse impacts of fireworks on both environmental resources and public recreation will be re-evaluated by the identified agencies. The program shall include the following components:

a. SeaWorld will increase the area of clean-up on Fiesta Island beyond the shoreline berm, proceeding as far inland as necessary to remove all fireworks debris the morning after each show.

b. SeaWorld will continue its surface water clean-up procedures after each fireworks show.

c. SeaWorld will continue diving, at least once prior to, and once following, each summer season, to determine if solids are accumulating on the floor of Pacific Passage.

d. SeaWorld will continue to monitor the levels of chemical constituents, particularly those associated with pyrotechnic displays (barium, strontium, antimony, etc.) in the waters of Pacific Passage and in the soils along the

shoreline of Fiesta Island. Testing shall be performed at least once prior to, and once following, each summer season.

If future monitoring of Fiesta Island and the waters in Pacific Passage identify significant levels of toxic constituents associated with SeaWorld's fireworks displays, SeaWorld is committed to undertake any remediation activities required by the identified regulatory agencies, or cease such displays altogether. SeaWorld may choose to conduct the same types of monitoring at other sites in Mission Bay Park to provide a reference baseline as a way to distinguish impacts of fireworks from normal background levels of the identified chemical constituents.

In addition, SeaWorld recognizes the endangered status of the California least tern, and the proven ability of the Mission Bay Park environment to aid the recovery of this species. To assist in that endeavor, SeaWorld will protect the designated least tern nesting sites on Mariner's Point and Stony Point from adverse disturbance during fireworks displays. SeaWorld will move the fireworks staging barge to a location approximately one-half (1/2) mile eastward of the Stony Point Preserve during the least tern breeding season, which runs from April 1<sup>st</sup> to September 15<sup>th</sup> of each year.

26. On Page III-1, the introductory paragraph under Development Criteria shall be modified as follows:

This section sets forth the development parameters applicable to the entire leasehold or specific leasehold area identified in this plan. The intent is to ensure that all future development will be distributed and constructed in a manner that, to the extent feasible, harmonizes with the established visual quality of Mission Bay Park. The interior renovation or replacement of an existing structure within the same footprint, height and building envelope as the original structure shall be exempted from the setback and bulk plane requirements but shall be counted in the total height distribution. The setback requirements for shoreline redevelopment are intended to provide a waterfront orientation to park users and reduce the visual impact of development from public views from the water and surrounding parklands. The setbacks will extend the public promenade for park users in the same manner as in other commercial leaseholds in Mission Bay Park.

27. On Page III-1, the section identified as Leasehold Height Distribution shall be deleted as follows:

~~Not more than 25% of the total 189.4-acre leasehold area shall exceed 30 feet in height.~~

28. On Page III-1, the Theme Park Height Distribution table shall be deleted as follows.

<u>Height</u>	<u>Acreage</u>	<u>% of Area 1</u>
30+ - 60 feet	13.1 acres	15%

<del>60+</del>	<del>100 feet</del>	<del>6.1 acres</del>	<del>7%</del>
<del>100+</del>	<del>130 feet</del>	<del>1.8 acres</del>	<del>2%</del>
<del>130+</del>	<del>160 feet</del>	<del>0.88 acre</del>	<del>1%</del>

29. On Page III-2, revise Figure III-1 to conform to the revised ride location required in Suggested Modification #18.

30. On Page III-3, under Setbacks and Buffers, the following modifications shall be made:

#### **Shoreline Setback**

Redevelopment at SeaWorld and all theme park improvements in the 16.5-acre expansion area shall be setback from the shoreline to provide an open space, public-oriented, park-like setting along the water. A minimum ~~25-foot~~ 75-foot shoreline setback shall be required of all future development except for water- or shoreline-dependent uses such as marina facilities, water intake and discharge facilities, or park attractions oriented towards open water use. The setback shall begin at the top edge of the existing rip-rap revetment or the bluff edge, whichever elevation is greater.

#### **Shoreline Bulk Plane Setback**

All new development (except in Areas 4 & 5) shall be setback behind a bulk plane line beginning at the shoreline setback (~~25~~ 75 feet from the existing rip-rap revetment or the bluff edge) at a height of 30 feet and inclined at a one-to-one angle (45°) until the 160-foot height limit is reached.

31. On Page III-5, the following modification shall be made under Attraction Themes/Elements:

At least 75% of the total number of attractions (excluding the hotel) within SeaWorld shall contain a significant animal, education, or conservation element. Amusement/thrill rides, regardless of their setting, are not counted towards the required 75%.

32. On Page IV-11, the following modification shall be made to the first paragraph, under Landscape Design Zones, The Shark Encounter Exhibit to South Shores Road Shoreline:

The shoreline extending east to South Shores Road is the primary emergency and service access for SeaWorld. The functional aspects of the area require open access to loading and maintenance areas and could be combined with enhanced public access to and along the shoreline. The existing landscaping is primarily drought-tolerant species that are compatible with Mission Bay wetlands. Moderate height trees and shrubs in this landscape provide partial screening of

fencing and exhibit buildings. The easternmost area (expansion area) is undeveloped, but planned for future theme park attractions. The shoreline of the expansion area shall be developed consistent with the setback requirements of the Mission Bay Park Master Plan Update. This currently undeveloped site serves as a transition area between the existing SeaWorld theme park and the public facilities at South Shores Park. This area should be developed to encourage public access to the shoreline consistent with other commercial leaseholds in Mission Bay Park.

33. On Page V-5, the following modification shall be made to the Plan Amendment Process:

The SeaWorld Master Plan anticipates that the majority of projects will not exceed the thresholds for Level 1 review. Projects involving greater scale and height will still be required to conform to the development criteria set forth in Section III of this plan. All Tier 2 development and any project that does not conform to the development criteria will require a plan amendment. The plan amendment process requires environmental review and public hearings before the Planning Commission, and City Council and California Coastal Commission.

34. On Page A-2, the fourth full paragraph shall be modified as follows:

~~The amount of development that can exceed 30 feet in height is limited to 25% of the leasehold. The plan further limits height in the main SeaWorld Theme Park (Area 1) to much smaller percentages that decrease for each successive increase in height level. At the highest level not more than one percent of Area 1 could be above 130 feet in height. No specific height limits are allocated in the Master Plan. The appropriate heights for each new development will be analyzed during the Coastal Development Permit process for any particular development taking into consideration visibility from the water, major coastal access routes and vantage points and the character and scale of development in the surrounding public parkland. Additionally the cumulative use of the heights above 30 feet allocations will be mapped by SeaWorld and verified by City and Coastal Commission staff.~~

35. On Page A-5, the following paragraph shall be added at the end of the section titled Traffic and Transportation:

Prior to implementation of the above-referenced public transit improvements, SeaWorld is committed to easing peak summer season traffic congestion in Mission Bay Park by providing a tram or shuttle service from the Old Town and Linda Vista trolley stations to SeaWorld. The tram or shuttle service will be operated on all weekends (Saturdays and Sundays) and holidays from the beginning of Memorial Day weekend through Labor Day. To further promote the use of public transportation, SeaWorld will offer financial incentives to transit

(bus or trolley) users in the form of reduced admission, free food or drink, reimbursement of transit costs, or other means.

36. On Page A-6, the last paragraph on the page, under Water Quality, shall be modified as follows:

Additionally, SeaWorld's landscape serves as a type of storm water control by providing erosion control, filtration and vegetative uptake of pollutants. Finally, SeaWorld has committed itself to a program of early 100% runoff treatment in the future involving a variety of treatment options based on the latest pollution control technology. Moreover, as a lessee of public land within Mission Bay Park, the water quality controls/regulations certified in the Mission Bay Park Master Plan Update must be implemented fully by SeaWorld for its leasehold.

37. On Page A-7, an asterisk shall be placed by the word "entitlement" in the first sentence on the page, and the following footnote added:

\*The Coastal Commission has not reviewed or certified the 1985 SeaWorld Master Plan as part of the certified Local Coastal Program, nor was that plan incorporated into the Mission Bay Park Master Plan as certified by the Commission in 1995. Therefore, any entitlements embodied in that plan are not recognized, and have not been endorsed, by the California Coastal Commission.

**PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF SAN DIEGO, MISSION BAY PARK LAND USE PLAN AMENDMENT, AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

LCP Amendment 2-2001-C is a request by the City of San Diego to amend the City's certified Local Coastal Program (Land Use Plan) to incorporate the SeaWorld Master Plan Update into the Mission Bay Park LUP segment of the City's LCP. The request includes several amendments to the certified Mission Bay Park Master Plan incorporating the height exemption approved by the voters in 11/98, exempting SeaWorld from the City's 30-foot height limit in the coastal zone, and incorporating the Sea World Master Plan Update as a component of the LUP. The SeaWorld Master Plan Update itself proposes redevelopment and expansion of SeaWorld over the next twenty years under a tiered program. Components of the plan address development criteria, design guidelines and five Tier 1 developments: a splashdown ride proposed partially within the adjacent 16.5 acre leasehold expansion area, an educational facility, major front gate renovations, parking lot improvements in the expansion area and on- and off-site access improvements for pedestrians and bicyclists. The Commission's San Diego office currently has pending permit applications for several of these improvements. The plan also delineates eight sites for Tier 2 development, but proposes no specific improvements at this time. These areas, where redevelopment is anticipated in the future, are shown as shows/rides/exhibits

in the submitted plan. Finally, the plan identifies three special projects: expansion of the marina, construction of a hotel and construction of a multi-story parking garage/transit center, that are not expected to occur for many years.

**B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT**

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

- a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to conservation of coastal zone resources or public access and recreational opportunities.

**C. NONCONFORMITY OF THE CITY OF SAN DIEGO LCP  
AMENDMENT NO. 2-2001-C WITH CHAPTER 3**

**1. Public Access and Recreation.** The following Chapter 3 policies of the Coastal Act address its mandate to maximize public access to and along the shore, and are most applicable to the proposed LCP amendment:

**Section 30210.**

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

(Amended by Ch. 1075, Stats. 1978.)

**Section 30212.**

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. ...

**Section 30213.**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

**Section 30223**

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The City's proposed LCP amendment modifies several sections in the certified Mission Bay Park Master Plan/LCP Land Use Plan (LUP), as well as adding the new SeaWorld Master Plan Update as a component of the LUP. Several aspects of the proposed amendment address public access and public recreational opportunities. As a whole, the proposed LUP amendments will affect public access both positively and negatively, and as currently proposed, the plan cannot be found consistent with the cited Coastal Act policies.

Negative impacts to public access include the loss of 16.5 acres of undeveloped land, which the City has recently added to the SeaWorld leasehold. This parcel is delineated for commercial recreation uses in the certified Mission Bay Park Master Plan, and is located between SeaWorld and the South Shores public boat ramp and park improvements to the east. In its currently undeveloped state, this parcel has historically been available to the general public for passive recreational uses; it includes an approximately 500-foot stretch of riprapped shoreline along Pacific Passage (an arm of

Mission Bay) with a flat upland area where fire rings used to exist. Since the City approved its new lease with SeaWorld, the fire rings have been removed and the 16.5 acre site has been fenced, resulting in the loss of this unimproved area to public use.

Another negative aspect of the SeaWorld Master Plan is the continuation of a break in public shoreline access. There are only a few remaining areas of Mission Bay Park where public access is routed inland around existing commercial leaseholds rather than along the shoreline. SeaWorld is one of these leaseholds. Throughout the remainder of the park there exists (or will exist as funding permits) continuous public access along the immediate shoreline. The certified Mission Bay Park Master Plan cites the completion of this public access pathway as a goal, and includes lease line and building setbacks to guarantee that space for the continuous access route is available along the entire shoreline. Only with such provisions could the Commission find the certified LUP consistent with the cited public access policies of the Coastal Act.

The proposed SeaWorld Master Plan does provide for a ten-foot wide shoreline access path along the 500 feet of the new expansion area, but this access would lead to a cul-de-sac which does not connect to the existing perimeter pedestrian/bicycle path. Moreover, this narrow path leading nowhere is viewed by SeaWorld as an attractive nuisance, conducive to illegal activity where law enforcement would be difficult. The Commission concurs with this conclusion, and finds the intent of the certified plan should be implemented in this lease expansion area. The certified Mission Bay Park Master Plan calls for a 50-foot setback from the top of any armored shoreline (this area has riprap) to an approved lease boundary, reserving this area for public access, and an additional 25-foot setback from the lease line to any structures.

It would appear the City approved the expanded SeaWorld lease boundary in a location inconsistent with its LUP, since the lease boundary runs along the shoreline itself, rather than 50 feet inland of the top of the riprap bank. Although the Commission has no direct jurisdiction over the leasing of public lands, it finds that, in order for the proposed master plan to be consistent with Chapter 3, the intent of the certified LUP should be carried out. This intent would require a total structural setback of 75 feet from the top of the riprap bank, with the 50 feet closest to the water available to the general public. An area 50 feet wide, instead of 10, would provide adequate space for reasonable public use, and would remove the “attractive nuisance” aspect of a long narrow corridor.

Although the proposed SeaWorld Master Plan includes several public access benefits, which will be discussed in the findings for approval of the plan with modifications, the Commission finds that these do not adequately mitigate for the loss of 16.5 acres of previously available public parkland, do not make up for the lack of adequate setbacks proposed in the plan and fail to meet the objective of a continuous shoreline public path. Additionally, the City has not addressed the fact that public recreational improvements have not kept pace with intensification of commercial leaseholds. Two significant areas, identified in the plan as the areas where the public recreational demand must be accommodated, are currently undeveloped or undeveloped. These are South Shores and



Fiesta Island. The Mission Bay Park Master Plan Update states the following regarding these areas.

“Encompassing over 600 acres of land area, South Shores and Fiesta Island represent a significant part of the future of Mission Bay Park. One third of regional-oriented recreation, the largest naturally landscaped upland areas, major sport and cultural event venues, and the Park’s parking and transportation hub will be located in these areas of the Park. Other, more contained facilities, will also be included, such as a boat ramp, potential commercial leases, new swimming areas and primitive camping. As a goal...

**...South Shores should be an intensively used park area that attracts visitors to a variety of public and commercial recreation venues yielding, in aggregate, a summary view of the Park’s grand aquatic identity. For its part, Fiesta Island should remain essentially open yet supportive of a diversity of regional-serving public and low-key, for-profit recreation and natural enhancement functions.**

The key to meeting these goals is the dedication of the Island’s southern peninsula, the current site of sewage treatment sludge beds, as a regional parkland area. This site enjoys unequalled access to clean Bay waters, outstanding Bay views, and is conveniently served by Park and regional roadways. This area of the Island also faces South Shores, which achieves the concentration of regional parkland uses to the benefit of transit, public facilities, and commercial services.”

The development which is anticipated for these areas provides the type of lower-cost visitor and recreational facilities protected by Section 30213 of the Coastal Act. SeaWorld is a private commercial facility operating through a lease arrangement with the City on public parkland and available only to those able to afford the park’s admission charge. The certified Mission Bay Park Master Plan identifies needed public recreational improvements within Mission Bay Park and estimates costs for implementation. However, nothing in the plan assures completion of public recreational improvements prior to or concurrent with private commercial development. Yet, private commercial development has a cumulative impact on traffic and circulation within the park and occupies land area otherwise available for lower cost visitor and recreational facilities. To offset this impact, the SeaWorld Master Plan Update, as approved by the City, provides only minimal public improvements at the adjacent South Shores Park, for pedestrians and bicyclists, in comparison to the significant redevelopment of the commercial site and expansion of the private leasehold into prior public parkland. Thus, the Commission finds the public access provisions of the Sea World Master Plan Update, and some provisions of the Mission Bay Park Master Plan, inconsistent with the cited Chapter 3 policies and the Coastal Act’s directive to encourage and provide public lower-cost visitor and recreational facilities, where feasible.

**2. Visual Resources.** The following Coastal Act policies addressed the protection and enhancement of visual resources and state, in part:

**Section 30240.**

... (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

**Section 30251.**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Mission Bay Park is recognized nationally as a public resource providing a wide variety of passive and active recreational opportunities in a unique, visually-pleasing setting. The park is generally horizontal in character, consisting primarily of rolling grassy areas, sandy beach and open water. There are a number of commercial leaseholds scattered throughout the park, which have been developed to various intensities. For the most part, the structural improvements in Mission Bay Park are low scale and do not detract from the wide open feeling of the park. Limited exceptions exist in four hotel towers (the Hyatt Islandia, the Bahia, the Catamaran and the Hilton) and two existing attractions at SeaWorld (the observation tower and the gondola ride). The gondola ride, whose supports are 100 feet tall, is in an area of existing mature vegetation that is sixty to eighty feet in height and provides screening. The other five facilities are highly visible from many vantage points, both inside and outside Mission Bay Park. These facilities all predate the Coastal Act and the City's coastal zone height initiative; no permanent structural improvements exceeding 30 feet in height have been approved anywhere in Mission Bay Park since passage of the Coastal Act and City height initiative.

In 1998, SeaWorld sponsored a new initiative exempting its leasehold from the 30-foot height limit and allowing future development to go as high as 160 feet maximum (half the height of the existing observation tower). The voters approved the initiative that November. However, the Mission Bay Park Master Plan, certified by the Coastal Commission in 1995, incorporated the City's existing coastal zone height limit of 30 feet for all new development in the park. Thus, the City is now proposing to amend the Mission Bay Park Master Plan to acknowledge a height exemption for SeaWorld, and has approved the proposed SeaWorld Master Plan which would accommodate a significant amount of new development exceeding 30 feet in height and expanding SeaWorld into an undeveloped 16.5 acre parcel to the east.

Under the proposed plan, up to 25% of the 189.4-acre leasehold, or a total of approximately 47.35 acres, could ultimately be developed with structures exceeding thirty feet in height. With the exception of a potential future parking garage, all currently envisioned new development exceeding thirty feet in height will occur within the 87.7 acre Area 1, which is the existing interior portion of the theme park, plus the new area of expansion. Height allocations within Area 1 are further broken down in the proposed SeaWorld Master Plan as follows: between 30-60 feet, 13.1 acres or 15%; between 60-100 feet, 6.1 acres or 7%; between 100-130 feet, 1.8 acres or 2%; and, between 130-160 feet, 0.88 acre or 1%. The plan further provides that not more than four of the twelve delineated development sites within Area 1 can have structures exceeding 100 feet in height. The remaining eight areas could conceivably develop with structures up to 99 feet in height.

To put this into perspective, the existing Hilton Hotel, an approximately 770,141 sq.ft. leasehold located along the eastern perimeter of Mission Bay Park, has an eight-story tower which is 90-feet in height and occupies an area of 5,850 sq.ft., or roughly 0.76% of the site. The Hyatt Islandia, located on an approximately 412,078 sq.ft. leasehold in the Quivira Basin area of the park (southwest quadrant), has an 18-story tower; although exact figures were not readily available, this would be estimated at approximately 160-180 feet in height. The Bahia leasehold (approximately 565,409 sq.ft. in size) is located on Bahia Point, a narrow peninsula extending north from West Mission Bay Drive. It has two existing structures that exceed 30 feet in height. The highest is a five-story tower building reaching 61 feet in height, which covers approximately 15,000 sq.ft. of land, or roughly 2.7% of the site; a second, four-story building appears to cover perhaps half as much of the site, meaning that approximately 4-5% of the overall site is occupied by structures exceeding 30 feet in height. The Catamaran, located on Sail Bay at the northwestern corner of Mission Bay Park (technically outside the park in the Mission Beach community, but fronting on the bay), has a 13-story tower, estimated to be approximately 120-130 feet tall on an existing 306,662 sq.ft. property. All of these properties have newer additions and associated facilities which do not exceed 30 feet in height.

As a comparison, the proposed SeaWorld Master Plan could allow over 47 acres (approximately 2,247,320 sq.ft.) to be developed at heights exceeding 30 feet, since it provides that 25% of the site can exceed 30 feet. The Tier 1 projects are described in detail in the master plan, and corresponding permit applications have been submitted to the Commission office in San Diego; four of the five Tier 1 projects are proposed to exceed 30 feet in height. The splashdown ride alone will occupy over half an acre of land; of that, the three supporting towers (95, 89, and 83 feet in height) occupy a footprint of approximately 3,400 sq.ft., and there are also significant flume and track elements ranging between 30-80 feet in height. The proposed 3-story educational facility will attain a height of 45 feet, and will cover approximately 8,500 sq.ft. of land, whereas an expanded special events area and front gate renovation are proposed to have roof articulation up to 40 feet in height, but the plan also allows each site a single icon structure up to 60 feet in height. Under Special Projects, the master plan identifies a four-level parking garage. This would be built when needed, and is limited in the plan to a

maximum of 45 feet in height. Dimensions are not given in the plan, but the area delineated in Figure II-3 of the plan appears to be 5 or 6 acres in size, or well over 200,000 sq.ft.; it can probably be assumed that this total includes space for landscaping, etc., such that the actual garage may be less than half that size.

In any event, these known proposals would appear to create something in the range of  $\pm 3$  acres (approximately 130,680 sq.ft.) of land coverage with structures exceeding 30 feet in height. The 25% limit for Area 1 would allow an additional, approximately 44 acres (1,916,640 sq.ft.) to develop above 30 feet in height. Such facilities would expect to be built within the eight delineated Tier 2 project sites; four of the eight sites are waterfront sites and one of the others would occupy a portion of the 16.5-acre expansion area. All of these are perimeter sites that are visible from areas outside SeaWorld. Although the footprints of the Catamaran and Islandia towers are not currently known, a very generous estimate would be an acre each. Under that scenario, it would appear that the five hotel towers together cover less than SeaWorld's proposed Tier 1 projects alone, and the Tier 1 projects account for less than a tenth of what could ultimately be built to a height above 30 feet. This gives a frame of reference for envisioning what the SeaWorld leasehold could look like if built out to the maximum scale and bulk allowed by the proposed master plan.

The Commission finds that buildout of SeaWorld under its proposed Master Plan would not be consistent with the cited Chapter 3 policies of the Coastal Act. Section 30240(b) requires that projects be sited and designed to prevent impacts to public recreation areas that would either degrade those areas or cause a loss of function within them. In addition, Section 30251 provides that views to or along the coast be preserved and protected, and that new development be compatible with the character of surrounding areas. The proposed 16.5-acre expansion area is currently undeveloped, except for a perimeter chain-link fence installed a few years ago. The site is currently characterized by scattered low-growing weeds and bare dirt/sand. The public recreational amenities at South Shores Park are located immediately east of this parcel, and include a boat ramp, sandy beach, parking areas and restrooms. Future additional public recreational improvements identified in the Mission Bay Park Master Plan include turf and picnic areas, a waterfront promenade, and a grass amphitheatre.

Across Pacific Passage to the north lies Fiesta Island. Along with South Shores, this is the last remaining large piece of undeveloped parkland designated for public recreational uses. Like South Shores, anticipated improvements include grassy picnic areas, open play areas, restrooms and parking lots. It is also possible that a swimming beach would be constructed along Pacific Passage, the narrow body of water separating Fiesta Island from SeaWorld. These two areas encompass 600 acres of the park and are currently undeveloped or underdeveloped and, thus, not available for the intense public use anticipated by the plan.

Although there is no view of the water from the nearest coastal roadway (SeaWorld Drive), people availing themselves of these public amenities currently have views of, and across, the SeaWorld proposed expansion area, and some views of the existing SeaWorld

facilities as well. The SeaWorld Master Plan currently proposes to build a splashdown ride in this general location, partially on the expansion area and partly within existing SeaWorld. The ride, as shown in the Master Plan, would only be set back from the top of the riprap bank of Pacific Passage a distance of 25 feet, and three tower elements of the ride would be between 83 and 95 feet in height. Within the 25-foot setback, the Master Plan calls for a 10-foot wide public walkway extending west from the northern terminus of South Shores Road for a distance of 500 feet, ending at an existing service gate for SeaWorld.

The public's view of the area, and portions of Mission Bay itself, would be adversely affected by this proposed high intensity use in such close proximity to the proposed passive and active public uses adjacent to, and across the water from, SeaWorld. Master Plan renderings identify that the proposed ride in this location will be visually prominent to park visitors in adjacent public areas and from surrounding residential communities as well. In addition to the height necessary to operate this type of thrill ride, such amenities also generally result in considerable crowd noise. Both the impacted views and a significant increase in noise may discourage use of South Shores, Fiesta Island, and the proposed public walkway between the ride and the shoreline. Although the Commission recognizes that this 16.5-acre expansion area will be developed in some fashion, it finds that the currently proposed use (a thrill ride) is inappropriate in this location. It would be visually prominent to many nearby park users and more distant residents, and, besides being visually intrusive, may degrade the recreational experience of park visitors in general.

The Commission is not opposed to the concept of some taller buildings/structures at Sea World, nor does it oppose the concept of roller-coaster type rides. However, it finds that taller structures should be more limited in number than established in the SeaWorld Master Plan and placed within the existing, developed area of the theme park, rather than on its periphery or at the water's edge. The Commission cannot find the proposed Master Plan consistent with the cited Coastal Act policies due to the significant visual impacts that would occur under the plan's current design.

**3. Water Quality.** The following Chapter 3 policies are most applicable to the certified Mission Bay Park Master Plan and the proposed SeaWorld Master Plan Update:

**Section 30230.**

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

**Section 30231.**

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

As with all structural development in Mission Bay Park, SeaWorld contributes its share of stormwater runoff into the bay. In addition, SeaWorld is unique in that it uses sea water for its aquariums and show tanks, and circulates this water to and from the bay continually. To address this concern, SeaWorld has constructed two on-site treatment facilities. Although designed primarily for the treatment of used aquarium water, these facilities also treat about 25% of SeaWorld's surface runoff from the improved parking lots before it is discharged into Mission Bay. The remainder of the parking lot runoff enters the City's municipal storm drain system which is outfitted with low-flow interceptors. During more intense storm events, the nearest storm drain discharges directly into Mission Bay in the Perez Cove area (westernmost portion of SeaWorld).

A portion of the eastern Sea World leasehold is underlain by the inactive Mission Bay Landfill. The City of San Diego operated the landfill from approximately 1952 until 1959. The landfill reportedly accepted municipal solid waste and some liquid industrial wastes (including acids, alkaline solutions, solvents and paint wastes). The U.S. Environmental Protection Agency estimates that up to 737,000 gallons of industrial wastes may have been disposed at the landfill during its operation. After closure of the landfill, dredged material from Mission Bay (consisting of mostly fine-grained material) was placed on top of the former landfill surface to a depth of approximately 15 feet. A portion of the site is currently paved with a chip-seal paving surface which allows for diffusion of landfill gasses while remaining impervious to water infiltration. This facility has generated a lot of public concerns over the current status of the landfill from a public safety perspective. Since this has been determined not to be an issue in relationship to the proposed LCP amendments, the full analysis is given later in this report in the findings for approval with modifications.

The public has also raised a concern as to whether SeaWorld's fireworks displays adversely affect land, air or water resources. These displays are typically held nightly between Memorial Day and Labor Day and intermittently throughout the remainder of the year to celebrate holidays and special events. Submitted reports indicate that, on average, there have been between 110-120 fireworks displays annually for the past several years. Although SeaWorld's Master Plan originally proposed a significant increase in the number of annual displays, the City's approval placed the limit at 150 per year, representing a small increase over what occurs now. At present, there is no established limit in any plan document, and fireworks could occur 365 days a year if it were economically feasible.

The environmental concerns over fireworks center around the debris that remains after each firework display, and whether or not this has any toxic effect on air, land or water. Some debris falls into the bay and some onto Fiesta Island, which is the nearest land body to the barge where the displays are staged. The typical components of fireworks include heavy metals such as Strontium, Copper Compounds, Magnesium, Titanium, Aluminum, as well as Black Powder containing carcinogenic sulfur-coal compounds. They also include a significant amount of paper packaging material. Not all materials are consumed in the explosion, and not all shells explode. Thus, fireworks residue may include paper, bits of wiring, traces of powder and sulfur, and the infrequent unexploded shell.

SeaWorld conducts clean-up activities after each display, but not all debris is removed through those efforts. Clean-up activities include skimming the water surface to retrieve any floating debris, and hand pick-up in the nearshore area of Fiesta Island. The main complaints seem to be that the water crew misses anything that has settled to the bottom, and the land crew doesn't go far enough inland to complete the job. Commission staff checked the southern portion of Fiesta Island several days after a fireworks display, when there had been two small rainstorms during the interim, and discovered a great deal of debris scattered over an area of about 40-50 acres. More significant rainfall would probably result in some of this debris being washed into the bay.

The bigger question, of course, is what effect this debris might have on land or water resources, and whether any impact is cumulative as well as individual. Since the debris found on Fiesta Island by Commission staff had already been there for several days, through two rain events, it does not appear to be quickly bio-degradable. Members of the public have indicated the bits of trash can remain for months. There is inconclusive evidence that other than as a source of litter, there is any biological harm. The issue does not appear to have been widely studied to date, but some literature is available.

In 1992, a report titled "*Environmental Effects of Fireworks on Bodies of Water*" was done for the World Showcase Lagoon, a man-made water body at Disney World/Epcot Center in Florida. Sampling of both the water column and sediments was conducted intermittently over a ten year period. The testing revealed higher than normal concentrations of antimony, barium and strontium, three common ingredients of fireworks, demonstrating that fireworks debris does accumulate over time. However, this did not seem to cause any change in the biota or appearance of the water body. The report concluded that when the firework displays are conducted infrequently over water bodies that have some level of flushing/dilution, effects are probably negligible. If there are frequent displays over closed water bodies, the report was less optimistic and suggested a need for further studies.

A second report, published in February, 1999 and titled "*Effects of Outdoor Pyrotechnic Displays on the Regional Air Quality of Western Washington State*," was also submitted for the Commission's consideration, both by SeaWorld and its opponents. Although published much more recently than the first report, the data was actually collected and analyzed during the week of July 1 through July 7, 1990. The report showed highest concentrations of smoke-related particulate matter on July 4<sup>th</sup>, and determined the cause

to be holiday fireworks displays. The distribution of smoke emissions resembled the population distribution, in that the greatest concentrations were found where large cities were located. The conclusion was that fireworks displays in populous regions of the country might violate the National Ambient Air Quality Standard.

Lastly, SeaWorld contracted with Science Applications International Corporation (SAIC) to prepare a report titled "*Evaluation of Impacts from SeaWorld Fireworks Displays to Mission Bay Sediment Quality*." Sampling was conducted at three sites around the fireworks staging barge and one at a reference location in Mission Bay. The study was patterned after the 1992 Florida study, and specifically measured antimony, barium and strontium. Although higher than expected barium counts were found, they were still within a normal range. The report made the following conclusions:

"SAIC found no evidence that the SWSD [SeaWorld San Diego] fireworks displays are adversely affecting Mission Bay. No metals contamination of Mission Bay sediments associated with the SWSD fireworks display was evident, with the possible exception of slightly elevated barium concentrations, which were approximately two-fold higher than expected based on the corresponding sediment iron concentrations. Despite this slight enrichment, the absolute concentrations of barium in sediments near the fireworks barge were low (average: 227 mg/kg),\* and these levels are not expected to cause impacts to water quality, toxicity to marine organisms, or otherwise interfere with any beneficial uses of Mission Bay."

\*Later in the study, the report clarified that, "Barium is the fourteenth most abundant element in the earth's crust, with an average concentration of 400 mg/kg and a range from less than 1 to 2,000 mg/kg (Neff, 1997).

It should be noted, however, that public recreation is one of the beneficial uses of Mission Bay Park. The portion of Fiesta Island littered with fireworks debris is designated to become improved public parkland with picnic and play areas, and is planned to be used for group activities, company picnics, family reunions, etc. While the unimproved area is currently used mostly by joggers and persons walking their dogs, in the future, a much more intense public use of this area is expected. The litter caused by firework debris could diminish public enjoyment of this area, and/or cause the City additional expense for trash removal; in either case, the presence of firework debris could have an adverse impact on public access and recreation in addition to possible environmental impacts.

The Commission finds the various reports, along with the on-site staff inspection, inconclusive. While none of these studies showed a clear link between fireworks and degraded air, land or water quality, the general consensus seemed to be that more study is needed. This uncertainty causes the Commission to find the current proposal, which does not impose time limits and does not require additional studies, is inconsistent with the cited Coastal Act policies.



Another reason the Commission finds the submitted LUP amendment inconsistent with the Coastal Act's water quality policies is that the certified Mission Bay Park Master Plan, approved in 1995, does not contain the level of detail addressing water quality issues typically seen in more recent LCP land use plans. As currently certified, the plan provides only generalized guidance on water quality issues, while water quality is recognized as the most significant problem facing this LCP segment. The proposed development at SeaWorld and associated improvements elsewhere in Mission Bay Park have the potential to increase the amount of polluted runoff entering Mission Bay, which is already designated an impaired water body by the RWQCB. Moreover, contamination often closes the public beaches, resulting in many days per year where public recreational opportunities are denied. The LUP amendment does not provide adequate standards to ensure that development associated with SeaWorld avoids additional adverse effects to water quality. The LUP amendment as submitted is therefore inconsistent with Sections 30230 and 30231 of the Coastal Act.

**4. Traffic and Circulation/Parking.** The following Chapter 3 policy of the Coastal Act is most applicable to the proposed LCP amendments, and states in part:

**Section 30252.**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, ... (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings ....

The proposed Mission Bay Park Master Plan amendments and SeaWorld Master Plan Update include a number of good policies addressing traffic issues, and include a range of mitigation measures to be implemented in the future based on attendance counts. In particular, the certified EIR for the SeaWorld Master Plan identifies the need for widening Sea World Drive and the West Mission Bay Drive bridge, interchange improvements at I-5/Sea World Drive and I-5/I-8, the construction of a parking garage, and accommodations for improved public transportation service. SeaWorld would provide a fair-share portion of the cost of road and highway improvements, but would have sole financial responsibility for the parking garage and on-site transit improvements.

The EIR and Master Plan documents, however, do not identify that any of these improvements are necessary to mitigate for the impacts of Tier 1 projects. All mitigations are associated with Tier 2 and Special Project developments, which are expected to bring SeaWorld attendance to significantly increased levels. Attendance itself is the final determining factor of when improvements are necessary, and SeaWorld must monitor attendance annually for that reason. None of these facilities are anticipated for a number of years (if ever, depending on market trends) so there is doubt as to whether the identified traffic improvements will ever occur. Moreover, since SeaWorld

is only a fair-share contributor for the road improvements, these will never be implemented if additional funding is not acquired from other sources.

The I-5/Sea World Drive interchange currently operates at LOS “F.” The environmental review attributes this more to summer weekday commuter traffic than to recreational park users. However, the highest weekday peak occurs in the late afternoon, when the recreational and commuter peaks coincide. Anecdotal information indicates that summer Sundays are particularly frustrating for the beach-going public due to traffic congestion attributed mostly to SeaWorld visitors. This situation improved somewhat about ten years ago when SeaWorld relocated their front gate and parking lot entrance. However, since the proposed development at SeaWorld is intended to increase attendance, and increases in regional population are expected to increase beach and park visitorship, the weekend situation can be expected to worsen in the future as it has done gradually over the past ten years.

Caltrans suggests a valuable improvement to area traffic circulation would be to complete the I-5/I-8 interchange. There are currently no connectors from eastbound I-8 to northbound I-5, nor are there connectors from southbound I-5 to westbound I-8. Much commuter traffic uses Sea World Drive only because the more convenient freeway-to-freeway connections cannot be made at the I-5/I-8 interchange. Thus, weekday traffic loads on Sea World Drive and at the I-5/Sea World Drive interchange would lessen substantially if the missing ramps were added at the I-5/I-8 interchange. These ramp additions, particularly the southbound I-5 to westbound I-8 connection, would also significantly reduce the use of Sea World Drive for recreational traffic, as this connection would make the western portions of Mission Bay Park, along with the beach communities easily accessible from the freeway, without having to rely on the surface street system within the park.

However, these improvements are not even identified as potential mitigation projects for SeaWorld for a number of reasons: the indirect relationship between the SeaWorld Master Plan and improvements at the I-5/I-8 interchange; the cost is prohibitive for a single funding source; no public monies are available; the improvements would have to be coordinated through CalTrans alone, since this would not involve any city streets; and the conditions are not at a critical point to demand action. Without these freeway to freeway connections, the next best way to alleviate the current congestion is to make improvements at the I-5/Sea World Drive interchange. Improvements at this location are identified in the EIR as one of the traffic mitigations for SeaWorld. These improvements would not be done for several years, however, since the EIR attributes the current LOS “F” to commuters, not to SeaWorld. The document indicates that SeaWorld would not be directly responsible for congestion in this location until it experiences a significant increase in attendance.

SeaWorld plays at least a cumulative role in this situation, especially since weekday commuter peaks coincide with recreational traffic peaks in the late afternoon hours. The afternoon commuter peak is identified as 5:00 – 5:30 p.m., and the recreational peak is 5:00-7:00 p.m. The main problem occurs on northbound I-5, when commuters leaving

downtown mingle with SeaWorld visitors heading home. Nonetheless, the EIR identified that short term traffic mitigations association with Tier 1 development at SeaWorld included widening Sea World Drive to 6 lanes, constructing a 400-foot extension of the eastbound right-turn lane on Sea World Drive at southbound I-5, and making several operational adjustments on Perez Cove Away to provide better flow for those entering SeaWorld.

SeaWorld has indicated it would prefer to contribute its fair share for the Sea World Drive widening to a city Capital Improvements Project (CIP), instead of constructing the improvements itself. This would allow the City to use the money to make the interchange improvements at Sea World Drive/I-5, which is a much more needed improvement from a regional perspective. The problem the Commission sees with this is that other fair share contributors are also needed for those improvements to be realized, such that complete funding may never be achieved.

Likewise, the other circulation/parking improvements identified in the EIR may never occur. Attendance monitoring will determine when the future parking garage needs to be built. The traffic study estimates this will occur in approximately 2011. The proposed plan fails to consider, however, that several identified projects will reduce the current level of public parking at SeaWorld. The Tier 1 educational facility will occupy portions of the existing main parking lot, usurping approximately 55 existing parking spaces. The Tier 2 area identified as I-2, includes 8 acres of land currently used for both formal and informal parking (approximately 1,200 spaces), and construction of the Special Project future hotel will remove current employee parking (approximately 650 spaces). It should also be noted that the potential future four-level parking garage is proposed to be built within the existing parking area. Thus, the actual parking gain must be reduced by the amount of parking lost to the garage itself and its approaches.

The plan does include the improvement of parking in a portion of the 16.5-acre expansion area (the 10-acre portion above the landfill, where most other uses are prohibited; this is expected to accommodate 1,500 spaces). However, SeaWorld is already using this area, in its unimproved state, for overflow parking on its busiest days. Formalizing the use of this area through surfacing and striping may result in some additional parking spaces over the current informal use, but it seems unlikely this would adequately mitigate for the parking losses identified above, let alone increase the parking supply to address future demand.

Lastly, the proposed master plan identifies future transit improvements to increase the use of public transportation for visitors to SeaWorld, Mission Bay Park in general, and the ocean beaches to the west. There is conceptual planning underway to extend a people-moving system from the existing Old Town trolley station, through Mission Bay Park and on to the beach communities. It is expected that any such proposal would include a stop at SeaWorld, and the SeaWorld Master Plan commits to providing a transit station within the future parking garage, providing the garage is built. However, the plan does not include any form of incentives to increase the use of public transportation, even though SeaWorld is currently on two bus routes.

The single biggest concern the Commission has with regard to all the traffic/parking issues, is the inability to guarantee that any of these traffic improvements will ever occur. Having one donor supply a share of the funding cannot guarantee that the improvements will certainly occur. Since most of the really critical traffic improvements are fair-share funded, SeaWorld's impacts could remain unmitigated forever if other projects in the area do not move forward. Likewise, SeaWorld's attendance may never reach the level to require the parking garage, yet the identified projects which will reduce on-site parking and may go forward unmitigated. Finally, the suggested transit facilities are reliant on a large infusion of public money, and may thus never happen. The Commission finds that, as only partially mitigated in the SeaWorld Master Plan, traffic impacts associated with the anticipated development at SeaWorld are inconsistent with Chapter 3 public access policies, and with the overall goals and policies of the certified Mission Bay Park Master Plan. Additionally, the plan lacks sufficient policy direction to assure necessary improvements to the circulation infrastructure will be funded and completed prior to the impacts associated with increase in intensity of use will occur.

**PART V. FINDINGS FOR APPROVAL OF THE MISSION BAY LAND USE PLAN, IF MODIFIED**

**A. SUMMARY FINDING/CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT**

The Commission finds, pursuant to Section 30512.2(b) of the Coastal Act, that the land use plan amendment, as set forth in the resolution for certification as submitted, is not consistent with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act. Section 30001.5 is recited above in this report.

**B. SPECIFIC FINDINGS FOR APPROVAL, IF MODIFIED**

Although both the Mission Bay Park Master Plan and the SeaWorld Master Plan Update contain good policies for resource and access protection, there are areas where both plans need improvement/strengthening before they can be found fully consistent with the Coastal Act. The Commission has included a number of suggested modifications intended to bring about this conformity and to guide the City in future planning decisions for this significant regional public recreational resource.

Detailed findings addressing the four specific issue groups identified in the previous findings for denial follow.

**1. Public Access and Recreation.** The City's proposed LCP amendment modifies several sections in the certified Mission Bay Park Master Plan/LCP Land Use Plan (LUP), as well as adding the new SeaWorld Master Plan Update as a component of the LUP. Several aspects of the proposed amendment address public access and public

recreational opportunities. As a whole, the proposed LUP amendments will affect public access both positively and negatively. Negative impacts on public access and recreation were addressed in the previous set of findings for denial of the LUP, as submitted.

On the positive side, the plan requires the widening and improvement of the existing bicycle/pedestrian path which currently runs around the inland perimeter of the SeaWorld leasehold. As approved by the City Council, the plan requires widening the existing 10-foot wide paved pathway, which follows SeaWorld Drive and Perez Cove Way for the most part, to 17 feet of path with a four to ten-foot landscape strip separating bicycle and foot traffic wherever possible. This would bring the path into compliance with current Mission Bay Park standards. In addition, the plan requires clear and adequate signage identifying the path as a public amenity.

Another public access benefit gained through the City's approval of the Master Plan is the off-site improvement of some of the missing segments of the existing shoreline access path around Mission Bay. These improvements total approximately 4,700 linear feet of 10-foot wide pathway, located between SeaWorld and the Fiesta Island causeway, where the current path is discontinuous in places. This improvement is required to be in place by the end of 2002.

Negative impacts of the proposed LCP amendments were addressed in detail in the previous set of findings for denial. Briefly, they include the direct loss of public parkland, failure to provide adequate shoreline setbacks for public access and the need to prioritize public recreational improvements over commercial development and leasehold expansion within Mission Bay Park. The Commission is suggesting a number of modifications to bring the Mission Bay Park Master Plan and SeaWorld Master Plan Update into conformance with Chapter 3 policies of the Coastal Act. Suggested Modifications #3, 4, 8, 9, 10, 11, 15, 21, 30, and 32 all address various aspects of public access and recreation. The first six are directed to the certified Mission Bay Park Master Plan, and modify its policies with respect to priorities in park development, expand potential funding sources, require public improvements to South Shores and Fiesta Island ahead of additional commercial development/redevelopment, provide for adequate shoreline setbacks and require construction of pedestrian promenade improvements. The other four access-related suggested modifications address the SeaWorld Master Plan Update, and identify appropriate uses of public parkland, especially use of the 16.5-acre expansion area, provision of a public promenade at South Shores, and setback requirements to provide public shoreline access.

Since approval of the Mission Bay Park Master Plan in 1995, which identified the South Shores public park improvements as a high priority item that could be completed right away, several commercial additions/expansions have occurred, yet the South Shores improvements remain unbuilt. The only public improvements that have been made in the park are relatively small projects constructed with sludge mitigation monies. The Commission still has concerns over the implementation of many identified public access protections and improvements in light of the costs involved and the economic situation within the tourism industry. Therefore, the Commission finds these modifications are the

minimum necessary to respond to known public needs, especially the need for additional low-cost public improvements. The modifications make both planning documents fully consistent with the Coastal Act's requirements for the protection and enhancement of public access and recreational opportunities.

**2. Visual Resources.** As stated previously, Mission Bay Park is recognized nationally as a public resource providing a wide variety of passive and active recreational opportunities in a unique, visually-pleasing setting of rolling grassy areas, sandy beach and open water. The commercial leaseholds are scattered throughout the park and include high-rise structures at four hotel sites, as well as the observation tower and gondola ride at SeaWorld. These few structures all predate the Coastal Act and the City's coastal zone height initiative which established a limit of 30 feet. No permanent structural improvements exceeding 30 feet in height have been approved anywhere in Mission Bay Park since passage of the Coastal Act and City height initiative.

In 1998, SeaWorld secured passage of a new height initiative, exempting itself from the 30-foot limit. Following this, SeaWorld developed the subject master plan, to establish development sites and design criteria for future buildout of the park, and redevelopment of existing areas. The initiative made it clear that additional heights could be proposed within the SeaWorld leasehold, but the City Council and Coastal Commission would decide whether or not to approve the specific proposals. The currently developed portions of SeaWorld (Area 1, without the new expansion, as depicted in Figure II-2, attached) are heavily landscaped with a variety of mature trees, shrubs and groundcovers. Many existing trees are 60-80 feet tall and effectively screen the interior of the park to views from outside SeaWorld. In addition, the existing landforms and development in this area obscure any view of Mission Bay across the historic leasehold itself. Therefore, some taller elements in this area may be found consistent with Sections 30240 and 30251, cited earlier in this report, depending on their exact location and design.

The Commission finds the height allocations identified in the SeaWorld Master Plan could result in massive changes to the character of Mission Bay, and that it is premature to set specific height allocations for future development. Establishing such allocations at this point could lead to unrealistic expectations on the part of SeaWorld, and could be interpreted as Commission endorsement of said allocations. The appropriate height of any proposed structure should be thoroughly analyzed during the site-specific project review and public hearing process for that particular development taking into consideration.

Suggested Modifications #1, 2, 5, 6, 13, 14, 18, 19, 20, 26, 27, 28, 29, 30, 32, and 34 are found necessary to bring both the Mission Bay Park Master Plan and the SeaWorld Master Plan Update into conformance with the cited Chapter 3 policies of the Coastal Act. The first four suggested modifications address the Mission Bay Park Master Plan and clarify the Commission's interpretation of the SeaWorld height initiative, future design options for the expansion area in keeping with its location in a transition area between open public park and SeaWorld, and a discussion of procedural issues.

The remaining suggested modifications all address the SeaWorld Master Plan Update. Suggested Modifications #13, 18, 19, 20 and 29 all address the location and design of the proposed Splashdown Ride. The master plan identifies a site partly within the expansion area and partly within existing facilities, and the attraction is proposed approximately 25 feet from the shoreline. This site is visible from adjacent areas in Mission Bay Park (South Shores and Fiesta Island) as well as surrounding residential communities. At 95 feet in height, it would be visible from many locations which cannot currently see the minimally developed area. Moreover, it would be immediately adjacent to public park facilities, including future passive picnic and walking areas as well as existing boating facilities. It would be both visually prominent and very audible to the people using South Shores Park. The Commission finds this siting inappropriate for an attraction of this nature, and further finds it should be relocated to a site within the existing developed area of the theme park in order to be consistent with Section 30251 of the Coastal Act.

Suggested Modification #14 addresses the level of review required for all proposed development exceeding 30 feet in height and simply clarifies the need for a coastal development permit. Modifications #26 and 30 address shoreline setbacks, to assure that all new development, including redevelopment of previously developed areas, complies with the intent of the setbacks established in the Mission Bay Park Master Plan to open up the waterfront for passive enjoyment. Modifications #27, 28 and 34 delete the specific height allocations proposed in the master plan as it may be determined, upon site-specific analysis of projects proposed in the future, that these allocations are too generous. The Commission finds that assigning specific maximum height allocations can be misinterpreted as acceptance of this full level of build-out. Finally, Suggested Modification #32 discusses the role of the expansion area as a transition from public open park to private theme park.

With these modifications, the plan will include appropriate siting and design criteria to protect existing visual resources, and is thus consistent with the cited Coastal Act policies.

**3. Water Quality.** As with all structural development in Mission Bay Park, SeaWorld contributes stormwater runoff into the bay. In addition, SeaWorld uses sea water for its aquariums and show tanks, and circulates this water to and from the bay continually. To address these concerns, SeaWorld has constructed two on-site treatment facilities. Although designed primarily for the treatment of used aquarium water, these facilities also treat about 25% of SeaWorld's surface runoff from the improved parking lots before it is discharged into Mission Bay. The remainder of the parking lot runoff enters the City's municipal storm drain system, but it is expected that, through redevelopment, virtually all runoff generated at SeaWorld will eventually be directed through its existing treatment facilities, which have excess capacity capable of treating increased loads.

In addition, SeaWorld has a Best Management Practices (BMP) program in place to control non-point sources of pollution during its day-to-day operations. The Commission's Water Quality Unit has reviewed SeaWorld's treatment facilities and BMP

Program and determined that these are adequate to address existing development and the Tier 1 projects described in the Master Plan. This BMP program, however, has not been incorporated into the Master Plan, and would more typically be addressed in future coastal development permit reviews.

The public raised a concern as to whether SeaWorld's fireworks displays adversely affect land, air or water resources, and there is little data available to either confirm or deny these concerns. Displays are held nightly between Memorial Day and Labor Day and intermittently throughout the remainder of the year to celebrate holidays and special events with an average of between 110-120 fireworks displays a year. The master plan had proposed a significant increase in the number of annual displays, but the City's approval placed the limit at 150 per year, which represents a small increase over what occurs now. However, at present, there is no established limit, and fireworks could occur 365 days a year if it were economically feasible. Three reports on fireworks impacts were submitted for staff review. The reports are inconclusive and somewhat contradictory, but express a need for more information.

Therefore, the Commission finds it appropriate that the City has placed a limit on the number of annual fireworks displays. Moreover, the Commission finds additional testing is necessary before any final decisions are made as to whether or not this is an appropriate venue for such displays. Suggested Modifications # 24 and 25 address the fireworks issue. They place a five-year limit on the fireworks shows and formalize a monitoring program to be used during this period. After five years, all test results will be reviewed by the Commission staff and other appropriate agencies, and a report will be brought forward to the Commission identifying all proven impacts and their significance, along with a recommendation on whether fireworks displays should continue. Suggested Modification #36 establishes that the leaseholder is responsible for the provision, operation and maintenance of all water quality devices and BMPs.

The prior modifications all addressed the SeaWorld Master Plan Update. Suggested Modification #12 represents the Commission's current direction in matters of water quality. This will modify the Mission Bay Park Master Plan to significantly expand its existing water quality component. As certified in 1995, the master plan includes some general water quality goals and identifies several potential projects to improve the waters of Mission Bay. Since 1995, there has been an increase in knowledge about these matters, additional limitations have been placed on chemical loading of water bodies, and significant technological advances have occurred. The proposed development at SeaWorld and associated improvements elsewhere in Mission Bay Park have the potential to significantly increase the amount of polluted runoff entering Mission Bay. Although SeaWorld has established an adequate BMP program, that program is not part of the SeaWorld Master Plan and does not apply to improvements that will be required elsewhere in Mission Bay Park pursuant to this LCP amendment. Suggested Modification #12 is therefore necessary to ensure that future development is designed and maintained to avoid adverse impacts to the water quality of Mission Bay, as required by Sections 30230 and 30231 of the Coastal Act.



A portion of the eastern Sea World leasehold is underlain by the inactive Mission Bay Landfill. The City of San Diego operated the landfill from approximately 1952 until 1959. The landfill reportedly accepted municipal solid waste and some liquid industrial wastes (including acids, alkaline solutions, solvents and paint wastes). The U.S. Environmental Protection Agency estimates that up to 737,000 gallons of industrial wastes may have been disposed at the landfill during its operation. After closure of the landfill, dredged material from Mission Bay (consisting of mostly fine-grained material) was placed on top of the former landfill surface to a depth of approximately 15 feet. A portion of the site is currently paved with a chip-seal paving surface which allows for diffusion of landfill gasses while remaining impervious to water infiltration.

Several investigations of the landfill were conducted to evaluate the extent of potential chemical contamination. Samples for chemical analysis were collected from soils, surface water, sediments and groundwater from the landfill and surrounding areas. Investigations detected a number of chemicals in onsite soils and groundwater including heavy metals, volatile and semi-volatile organic compounds and chlorinated pesticides. In 1985, the Regional Water Quality Control Board (RWQCB) adopted Order No. 85-78, which required, among other things, routine monitoring of groundwater, surface water and sediments from Mission Bay and the San Diego River. In addition to routine monitoring, several additional soil and groundwater investigations were conducted in and around the landfill through 1997. The results of these investigations and continued routine monitoring indicate that low levels of chemicals were detected in soils and groundwater beneath and adjacent to the landfill. According to the RWQCB, these low levels of chemicals do not represent a significant threat to public health or the environment. Furthermore, the California Department of Toxic Substances Control (DTSC) and U.S. EPA previously evaluated the site in 1987 and 1993, respectively, and determined that the site did not pose a significant threat (See attached letters from the DTSC and RWQCB).

The RWQCB continues to be the lead agency for oversight for water quality issues at the Mission Bay Landfill. The City of San Diego continues to monitor the site in accordance with RWQCB Order 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills. Routine monitoring has detected low levels of several chemical constituents in groundwater beneath and adjacent to the site. However, the concentrations of these chemicals have been well below any of the established action levels identified by the RWQCB, and do not appear to represent a significant threat to public health or the environment. The site is currently in compliance with the requirements of the City of San Diego Solid Waste, the RWQCB, and California Integrated Waste Management Board.

Commission staff has received public comments related to the presence of contaminants in groundwater beneath the landfill and the potential for migration of these chemicals offsite. The Commission's Water Quality staff has reviewed the available monitoring data regarding groundwater conditions at the Mission Bay Landfill. Staff concludes that data supports the determinations by the regulatory agencies overseeing the landfill that the low levels of chemicals detected do not represent a significant threat to public health

or the environment. The same public comments were submitted during the comment period for the *Draft Environmental Impact Report for the Proposed Sea World Master Plan Update (EIR)*, dated March 12, 2001. These comments and related issues were fully and adequately analyzed by the lead agency in the Final EIR.

The data submitted most recently does not relate to either Maximum Contaminant Levels (MCLs) or to the California Toxics Rule (CTR). Both of these regulations establish **water quality standards** for either sources of drinking water (MCLs) or Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. The summary of the analytical results submitted on January 22, 2002 relates **soil** samples, not water samples and, therefore doesn't apply to either MCLs or the CTR. The data presented are insufficient to draw any conclusions about potential migration to surface or groundwater or about the levels which chemicals may be present in surface or groundwater. Furthermore, the concentrations detected are low, and not untypical of those found in background soils in urban areas. A comparison of those heavy metals and organic compounds detected in the soil samples to the U.S EPA Region 9 's Preliminary Remediation Goals for either residential soils or soil screening levels for Migration to Ground Water, show they are substantially below (2 to 4 orders of magnitude) levels which would require action.

With the four suggested modifications discussed earlier in this finding, the Commission finds the LCP amendment consistent with the cited Coastal Act policies addressing water quality.

**4. Traffic/Circulation/Parking.** SeaWorld hosts nearly 4,000,000 visitors a year, with well over 100,000 people using Mission Bay Park on peak summer days. The vast majority of these people arrive via private automobile, and significant traffic impacts are occurring both inside and outside the park. Because of some missing connections on the nearby freeways, the park is heavily used by commuters as well. For beach access reasons, the Commission is most concerned over traffic impacts occurring during the summer season, particularly on weekends.

Regarding the demand for regional parkland, the Mission Bay Park Master Plan Update states the following:

“Consisting of mostly sandy beaches backed by ornamental turf, vegetation, and support parking, the regional parkland areas of Mission Bay Park are the recipient of intensive, region-wide, land-based recreation. Picknicking, kite flying, frisbee tossing, informal sports, walking, jogging, bicycling, and skating are typical activities in the Park’s regional parkland. In consideration of an anticipated 50 percent increase in the county’s population over the next 20 or so years, an equivalent increase in the amount of regional parkland area has been targeted for the Park to meet future recreational demands.”

The areas targeted within the plan to meet future recreational demand for the lower cost visitor and recreational facilities available to the general public are South Shores and

Fiesta Island. These two areas encompass 600 acres of the park and are currently undeveloped or underdeveloped and, thus, not available for the intense public use anticipated by the plan. The traffic and circulation improvements necessary to accommodate this projected increase in public recreational demand has not been determined. Additionally, completion of necessary infrastructure improvements is not assured. The Commission finds it is appropriate for the City to focus on the means to fund and complete substantial portions of the regional parkland and access and circulation improvements identified in the plan for these areas prior to allowing any further expansion of commercial development within the park.

The proposed Mission Bay Park Master Plan amendments and SeaWorld Master Plan Update include a number of good policies on traffic issues, and include a range of mitigation measures to be implemented in the future based on overall growth and attendance counts at SeaWorld. As discussed in the findings for denial, the major problem is not determining what improvements are needed, but prioritizing the improvements according to greatest need, and finding a means to fund and implement necessary improvements.

Four Suggested Modifications addressing traffic matters are included in an attempt to help promote faster implementation of improvements.. The first three, Modifications #7, 9 and 10, modify the certified Mission Bay Park Master Plan. They address needed freeway improvements, identify some potential funding mechanisms and require that the Caltrans Project Study Reports I-5/I-8 improvements and at the I-5/SeaWorld Drive Interchange be utilized as a factor in determining when expansion of commercial development and/or leaseholds may occur within Mission Bay Park in the future. These reports are necessary to determine the phasing and funding of improvements necessary to relieve congestion during peak summer recreational use and address the cumulative effects of increased commercial development, population and public recreational demand. The Commission finds such plan policies are necessary in order to prevent traffic congestion related to future development at SeaWorld from impeding the public's ability to get access to the coast, pursuant to Sections 30250 and 30252 of the Coastal Act.

Suggested Modification #35 is directed to the SeaWorld Master Plan Update and discusses the promotion of public transportation as a way to reduce traffic volumes on the street system. It identifies a tram service for summertime weekends to transport people from the nearby trolley stations to SeaWorld, and also identifies some incentives which might increase use of public transportation (buses and trolleys). These measures are necessary to comply with the requirements of Section 30252 of the Coastal Act to facilitate the provision of transit service, especially for high intensity uses such as SeaWorld.

With the modifications, the Commission finds the planning documents consistent with the cited Coastal Act policies addressing traffic and parking issues.

**5. Future Development.** The terms “entitled” and “entitlements” may be misconstrued by the City or SeaWorld as an indication of Commission endorsement. Suggested Modifications #16, 17, 23, and 37 clarify this point. Although the Commission is not striking all reference to potential Tier 2 projects, Suggested Modifications #17 and 33 make it clear that no Tier 2 development is approved at this time, and that all such development must be the subject of a future LCP amendment or amendments. . Suggested Modification #22 clarifies that temporary facilities placed within the water area of Site F-2 are not exempt from permitting requirements and must be the subject of a site-specific biological analysis. Suggested Modification #31 clarifies that thrill rides may not be counted as attractions containing a significant animal, education, or conservation element for purposes of meeting the City’s 75% criteria.

## **PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. As discussed in previous findings, there are numerous suggested modifications to bring the Mission Bay Park Master Plan and SeaWorld Master Plan Update into conformity with the Coastal Act. They primarily address public access and recreation, visual resources, water quality and traffic issues. Thus, there are feasible alternatives or feasible mitigation measures proposed through these modifications which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan amendment, as modified, conforms with CEQA provisions.